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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**
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8 Samuel Antonio Parra,

9 Petitioner,

10 v.

11 Charles L. Ryan, et al.,

12 Respondents.

No. CV-11-00716-TUC-JGZ

ORDER

13 Pending before the Court is a Report and Recommendation issued by United
14 States Magistrate Charles R. Pyle that recommends denying Petitioner's habeas petition
15 filed pursuant to 28 U.S.C. §2254. (Doc. 15.) As thoroughly explained by Magistrate
16 Judge Pyle, Petitioner is not entitled to relief as the claims raised in his petition are not
17 exhausted or are without merit. As Petitioner's objections do not undermine the analysis
18 and proper conclusion reached by Magistrate Judge Pyle, Petitioner's objections are
19 rejected and the Report and Recommendation is adopted.

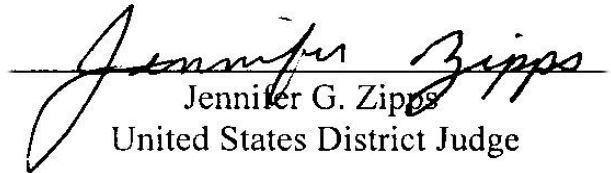
20 Before Petitioner can appeal this Court's judgment, a certificate of appealability
21 must issue. *See* 28 U.S.C. §2253(c) and Fed. R. App. P. 22(b)(1). Federal Rule of
22 Appellate Procedure 22(b) requires the district court that rendered a judgment denying
23 the petition made pursuant to 28 U.S.C. §2254 to "either issue a certificate of
24 appealability or state why a certificate should not issue." Additionally, 28 U.S.C.
25 §2253(c)(2) provides that a certificate may issue "only if the applicant has made a
26 substantial showing of the denial of a constitutional right." In the certificate, the court
27 must indicate which specific issues satisfy this showing. *See* 28 U.S.C. §2253(c)(3). A
28 substantial showing is made when the resolution of an issue of appeal is debatable among

1 reasonable jurists, if courts could resolve the issues differently, or if the issue deserves
2 further proceedings. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). Upon review
3 of the record in light of the standards for granting a certificate of appealability, the Court
4 concludes that a certificate shall not issue as the resolution of the petition is not debatable
5 among reasonable jurists and does not deserve further proceedings.

6 Accordingly, IT IS HEREBY ORDERED as follows:

- 7 1. The Report and Recommendation (Doc. 15) is accepted and adopted;
- 8 2. Petitioner's §2254 Petition (Doc. 1) is denied and this case is dismissed with
9 prejudice;
- 10 3. A Certificate of Appealability is denied and shall not issue; and
- 11 4. The Clerk of the Court shall enter judgment accordingly and close the file in this
12 matter.

13 Dated this 28th day of July, 2014.

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17 Jennifer G. Zipp
18 United States District Judge
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